

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION NO : 21845 of 1999

Between:

Narasapur Public Telephone Operators Welfare Association,

Regd.No.622 of 1993,Narasapur-Rep.by its Secretary

Mr.N.Murali Krsihna,s/o Venkata Subbaiah R/o Narasapur-W.G.District.

..... PETITIONER

AND

1 The General Manager,Telecommunications of Andhra Pradesh,

West Godavari District,Eluru.

2 The Sub Divisional Engineer (Phones), Department of

Telecomunications,Narasapur,W.G.District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ more particularly one in the nature of Writ of Mandamus while declaring the action of the respondents imposing the restriction on use of cellular phone in STD booth under the threat of disconnection without notice as stated in his letter No.P/35/STD-PT/98-99/37 dt.24-11-98 under Clause No.5 as wholly illegal, arbitrary, capricious and opposite to the theory of legitimate expectation.

Counsel for the Petitioner: MR.SUBRAHMANYAM KURELLA (**not present**)

Counsel for the Respondent No.1 and 2: MR.A. RAJA SEKHARA REDDY, S.C.
FOR C.G. AND MR. PHALGUNA RAO, ADDL. SC FOR S.C. C.G. (**not present**)

The Court made the following:

ORDER:

Narsapur Public Telephone Operators' Welfare Association challenges the action of the respondents in imposing restrictions on the use of cellular phones in STD booth as illegal and arbitrary. The petitioner is a registered society espousing the cause of 86 STD/PT Operators in Narsapur. It is their case that at the relevant time, the Department of Telecommunications fixed Rs.1,800/- as the minimum guarantee business, and therefore, all the members have to pay the said amount whether or not they are able to generate the business. Further, they state that a private cellular operator, namely, Tata Cellular has established Coastal Corridor connecting the entire coastal line with cellular phone and by reason of the same, all the STD/PT booth operators are losing their business.

The second respondent herein issued a communication dated 24.11.1998 to the Secretary of the petitioner-Association informing the instructions for due compliance. These instructions *inter alia* prohibit the use of cellular phone at the STD/PT location. The petitioner contends the prohibition of cellular phones is arbitrary and illegal. The counter affidavit is filed by the Assistant General Manager (Legal) on behalf of the respondents. It is stated that as per Clause-23 of the terms and conditions accepted and signed by all the PT operators the licensee will have to abide by the policy of the Department, revised or modified from time to time, and that Clause-5 of the Conditions in the impugned letter dated 24.11.1998 is in tune with Clause-23. It is also stated that as a matter of policy of the STD/PT attendants are prohibited from using the cellular phones whether or not the cellular phone is introduced in the area.

Though the letter of the second respondent is challenged on the ground that it is arbitrary, no effort is made to show how such prohibition is arbitrary. Further, the submission that the impugned condition is violative of principles of natural justice is misconceived. As pointed out by the respondents, under Clause-23 of the terms and conditions, every STD/PT attendant has to abide by the policy of the Department revised from time to time. The Department of Telecommunication prescribed the policy of prohibiting the use of cellular phones in STD/PT booths, this Court is not able to hold that policy as arbitrary.

The writ petition is misconceived and is accordingly dismissed.

September 9, 2004. (V.V.S. RAO, J)

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The General Manager, Telecommunications of Andhra Pradesh,

West Godavari District, Eluru.

2 The Sub Divisional Engineer (Phones), Department of

Telecommunications, Narasapur, W.G. District.

3 Two C.D. copies.